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NOTA BENE

Vol. 3, No. 3

Newspaper of the George Washington University Law School

Monday, February 16, 1998

Pres. Trachtenberg Proposes New Building and Dorm for Law School

by H. Otis Bilodeau
Editor-in-Chief

George Washington University President Stephen Joel Trachtenberg laid out his own long-term plan for the Law School in an interview last week: Rather than shrinking the size of the student body, he suggested, the Law School's facilities should be supplemented by a new 80,000-100,000 square foot building and a dormitory for 1Ls.

President Trachtenberg first outlined his proposal in a meeting last week with members of the Student Bar Association. Explaining that "I think we ought to keep the size of the law school [student body] pretty much as is," he nonetheless noted that "I am not unmoved by the space problems over there." The Long-Term Planning Committee of the Law School has suggested reducing the size of the student body at the Law School to ameliorate the crowded conditions, and to maintain the Law School's competitive stature in the face of a nation-wide downward trend in law school applications.

President Trachtenberg's proposal favors growth over shrinkage. He explained that, in addition to the 25,000 square foot addition currently underway,

the Law School should expand into a new building on the site of the parking lot opposite the H Street entrance to the Law School. Such a building, Trachtenberg contended, would cost about \$20 million -- half of which he said the University would cover. "I'll put ten million on the table," Pres. Trachtenberg said, adding, "Presumably we'll get a new dean, and a new dean needs a charge. You [at the Law School] take on the challenge of raising ten million. At three million, we'll do the drawings. At five million, we'll break ground. After that, it will take about two years to complete the building, and the balance of the money can be raised during those two years."

Asked how he intends to raise the University's \$10 million share, President Trachtenberg said, "Don't you worry your pretty little head. I'll find the first ten. I've talked to the board about it -- I'm a cowboy, but I'm not Roy Rogers."

In addition to the new building, President Trachtenberg proposed to transform Francis Scott Key Hall into a dorm for 1Ls. "I believe the Law School would be significantly enhanced by a residential facility that accommodates



President Stephen Joel Trachtenberg

some percentage of the first year class," he said. He noted that a dorm would attract students to GW, and would provide a "greater comfort factor for new students, in a new city." The proximity of the dorm to the classroom buildings would reduce pressure on lockers, as students could return to their rooms between classes. "That way you don't have to schlep your books," Pres. Trachtenberg said. "It will make the first year a more elegant experience."

President Trachtenberg emphasized that his plan for the dorm is still

See New Building pg 4

In Brief...

Congratulations -- and welcome -- to Mr. Thomas Morrison, who has joined the Law School administration as Assistant Dean. Dean Morrison, who earned his LL.M. in environmental law from GW in '84, is responsible for supervising the Law School's Alumni Relations Program, coordinating the development of non-library computer systems, as well as budget planning and facilities management. Dean Morrison has had a distinguished career in the United States Navy, where he served most recently as the Assistant Judge Advocate General of the Navy for Operations and Management and as Vice Commander of the Naval Legal Service Command.

Kudos and other assorted expressions of warm appreciation to those faculty, administrators, emeriti, lecturers and professionals who have generously contributed cold hard cash (in addition to pearls of wisdom) to the Law School since July, 1996.

According to The George Washington University 1997 President's Report, and a laudatory SBA resolution, the following deserve recognition for their generous contributions --

Faculty and administrators:

Jerome Barron, Elizabeth Borg, Leslie Borak, Thomas Buergenthal, Mary Cheh, Thomas Dienes, Jack Friedenthal, John Jenkins, Philip Hamburger, Katie Harrington-McBride, Thomas Morgan, William Painter, David (and Lilien F.) Robinson, Alfreda Robinson, Stephen Saltzburg, Teresa Schwartz, Louis Sohn, John Spanogle, Roger Transgrud, and Arthur Wilmarth.

Lecturers, emeriti professors, and other professionals:

Hugh Bernard, Robert Bidwell, William Bradford, Jr., Margaret Mann Drachsler, Jane Moretz Edmiston, Alan Ehrlich, Kellyanne Fitzpatrick, Gregory Garre, Benjamin Grumbles, The Hon. Clyde Hamilton, Louis Harris, Heather Kelly, Kenneth Kryvoruka, Raphael Vincent Lupo, Jonathan Mitchell, Ralph Nash, Barry Nudelman, Maximilian Pock, Edward Potts, Michael Sanders, James Patrick Schaller, Lewis Schiller, Joseph Michael Schilling, and David Sharpe.

Dean Friedenthal, Professor Saltzburg, Professor Teresa Schwartz, and Hugh Bernard particularly deserve to be singled out for their whopping generosity -- each gave \$10,000 or more since July, '96.

SBA Urges Faculty Not to Reappoint Geltman

Geltman Offers Account of Property Exam 'Error'

by H. Otis Bilodeau
Editor-in-Chief

Claiming that Professor Elizabeth Glass Geltman's conduct in a course she taught in '96 "directly harmed" over 100 students, the SBA last week passed a resolution calling for the faculty to deny her reappointment. The faculty will vote on Prof. Geltman's candidacy on Feb. 20th.

The SBA resolution regarding a professor's candidacy is unusual: typically, the SBA simply provides input on individual candidates to student members of the Tenure & Promotions Committee. In Prof. Geltman's case, however, the SBA members felt "compelled to speak" more directly to the entire faculty, according to language in the resolution.

The resolution states:

"Whereas, professors and administrators of the Law School serve as professional and personal role models to

Law Review Symposium Lures Renowned Judges and Scholars

by Nota Bene Staff

The George Washington Law Review's Symposium on Textualism and the Constitution, which took place this past weekend, drew a diverse and distinguished group of scholars from around the nation, and attracted a standing-room-only crowd of observers.

The symposium was dubbed an unqualified success by a harried-looking Rachel Hines, Senior Projects Editor and co-organizer of the symposium. Hines, along with co-organizer and Notes Editor Kaija Clark, and Editor-in-Chief Brian Corbett, all looked slightly dazed, but clearly pleased, by the middle of the second day of the



Kaija Clark, Symposium Organizer

event. Attendance by both GW law students and faculty members was higher than anticipated, and the Symposium garnered over forty attendees from outside the law school community, Hines said.



Rachael Hines, Symposium Organizer

Principal speakers at the event included Professor Lawrence Lessig of Harvard Law School (recently tapped as special master in the Microsoft anti-trust case), Profs. Akhil Amar and Jed Rubenfeld of Yale Law School, William Eskridge of the Georgetown Law Center and GW's own Jeffrey Rosen.

Eminent commentators included Judge Frank Easterbrook of the Seventh Circuit, Judge Stephen Williams of the D.C. Court of Appeals, and Professor Walter Dellinger, the former Solicitor General for the Supreme Court. Home-court luminaries Bradford Clark, Ira "Chip" Lupo and Gregory Maggs also served as commentators.

Two commentators dropped out at the last minute: Professors John Hart Ely and Steven Calabresi were compelled to stay home for personal reasons. Professor Maggs agreed to step in at the

See Symposium pg 5

See Geltman pg 4

Letters to the Editor

A Veteran's Response

The *Nota Bene* issue of 2 February 1998 carried a Commentary piece by Louis Feuchtbaum implicitly calling for the termination of Judge Advocate General's (JAG) Corps recruiting through the CDO. I respectfully disagree.

I will state my biases up front. Like Mr. Feuchtbaum, I too am a veteran. Unlike Mr. Feuchtbaum, I am not uniformly critical of the military's "Don't Ask, Don't Tell" policy. Reasonable people may hold divergent views on this issue. Regardless of one's stance on homosexuals in the military, however, I believe that the CDO should continue to support the JAG Corps' recruiting for several reasons.

First, the purpose of the CDO is to support each student's individual career choices, not the choices that Mr. Feuchtbaum (or anyone else, for that matter) thinks that each student should have. I would not have to look hard to find employers whose politics and policies offend me as much as the JAG Corps' policies offend Mr. Feuchtbaum. Ultimately, though, I contend that we must respect the opportunity for our colleagues to make career choices with which we disagree. And that is all I ask of those who oppose the JAG Corps' policies.

Second, denying the JAG Corps the full opportunity to recruit at competitive schools weakens the military. In places like Bosnia and Kuwait, JAG officers are giving commanders immediate counsel that shapes tactical decisions. The wrong advice, for example, about a provision of the Dayton Accords could have tragic consequences. Our military personnel do not always operate in locales as forgiving as Foggy Bottom. With that in mind, do we really want to hobble the JAG Corps' recruiting?

Finally, denying the JAG Corps the opportunity to recruit through the CDO is likely to deprive our military people of the best possible defense counsel. Mr. Feuchtbaum is only telling part of the story when he states that JAG officers help enforce the "Don't Ask, Don't Tell" policy. JAG officers also defend military personnel in legal trouble. When Mr. Feuchtbaum was a sailor, I am sure that he would have wanted the best possible JAG officer on his side, if necessary. It is ironic that, now, Mr. Feuchtbaum advocates a policy that would deprive servicemen of that advantage.

Again, reasonable people may disagree about the propriety of the Clinton administration's "Don't Ask, Don't Tell" policy. What we should not do, however, is force the JAG Corps and those who rely on it to bear the brunt of this debate.

Respectfully yours,
Matthew J. Hank

Geltmania?

This is in response to all those people who think Geltman is the best thing since DDT. Look, I've had a lot of bad teachers in my academic life. Teachers who were arrogant, teachers who were forgetful, teachers who came in late, left early, teachers who were boring, teachers who looked at all us students like we were obstacles to tenure, teachers who spoke too quietly, too slow, or too much, teachers who took

the back-and-forth personally, and teachers who graded you on attendance. (To any current or former teacher reading this, of course, I'm sure none of these comments refer to you!)

I've never seen anyone like Elizabeth Glass Geltman.

For those who don't know, Geltman taught Section 12 property in the spring of 1996. There were problems with her teaching, and she took another professor's exam and passed it off as her own. Some of us had seen one, two, or all of the problems by looking at that professor's old exams. Since then, some students have complained that Geltman has gotten a bad rap: they point to her competent teaching of upper level courses, her work for the Environmental Lawyer, and there is some hint that criticism toward her is based on the fact that she is a woman.

These supportive statements suggest to me that some people have missed the point of Geltmania. For argument's sake I'll concede that a great upper level teacher like Geltman comes around about as often as a comet, and that she carries the weight of her journal upon her shoulders alone. So what? Suppose that I explicitly cheated on one of my exams. Called before a committee to explain myself, suppose I pointed to my honorable, even successful conduct on my other exams and the work I have done during my three years here. Should I expect anything less than severe punishment? Of course not, and that's where people who want to "balance" Geltman's good and bad points get it wrong. The issue ought to be whether her (in my view) horrific teaching and subsequent exam conduct warrant punishment. And that's all.

The way I remember it, Geltman consistently contradicted herself in class, refused to answer questions, was rude, spent two whole class periods just organizing us into teams for some exercise when she could have pre-assigned the teams, refused to make herself available for questions after the last class, made us pay \$25 for her environmental law book that we used for a negligible number of property-related cases, and told us loads of very interesting information purporting to be the law that apparently came from some fantasy world she dreamed up, *because it was contrary to the black letter*. Horizontal and vertical privity my ass. A friend and I wrote a letter to Dean Robinson two hours before the exam expressing our concern that the class not only taught us nothing but actually took information from us. Oh, and then there was that exam thingy. In my opinion, her teaching style that semester and her exam conduct demonstrate she has very poor judgment, too poor to be a member of the faculty here. Whether she is competent in other settings does not change my opinion.

As for whether Geltman receives some of this criticism because she is a woman, I can only guess. But I would make two points. First, section 12 students paid thousands of dollars for property, a critical bar subject, and when we leave knowing nothing and with "P"s on our transcripts, one might consider that section 12 students deserve victim status more than Geltman, who was paid and who also, I assume, received royalties for her unhelpful book. Second, male teachers here certainly do receive their share of criticism. Many have been

panned by student reviews. When Professor Morgan lost his exams last year, where at most one could say he should have taken better precautions, he was castigated by the law revue show and by some of the student body. Professor Morgan at worst was negligent, while in my view Geltman at her best misrepresented herself, and at worst engaged in malicious behavior. Her conduct warrants at least the same level of criticism.

Except she deserves much more. Professor Morgan, to his credit, indicated that he regretted the loss of the exams. To my knowledge, Geltman has yet to acknowledge she did anything incorrect. Geltman has brought much of this animosity upon herself because she has not apologized. Such an apology might be a first step toward reconsidering the quality of her judgment. It would also show the students here that the faculty recognizes the value of a high standard of conduct in their teaching and exam-giving. Finally, although I have no idea why repentance leads to a slackening in the desire for retribution, apparently it does, and in this society — our little law school — we ought at least to strive to recognize the possibility of mistakes and being merely human. But so far, from Geltman we have not heard even an "oops!"

Jeff Pearlman

Geltmania, pt. 2

The comments of "One 3L" and "Another 3L" decreeing that gender and age discrimination are the cause of Professor Geltman's disfavor are absolutely pathetic. I am sorry that I am a white male and thus of questionable credibility (never being the subject of any serious sexual or racial bias), but I hope I am not the only one who is aghast by these off-hand remarks. Professor Geltman has a poor reputation because she is a young female? Isn't that just a little too easy?

This type of comment hurts the credibility of every woman who has a legitimate claim of sexual discrimination. Professor Geltman gets a bad reputation for making a completely stupid mistake, and what does One 3L and Another 3L decide? It must be because she's a woman. Professor Geltman perpetuates this reputation because she is not, as your article states, an "effective teacher of upper-level Environmental Law courses." But my opinion must stem from the fact that she's a young female.

I can only speak for myself when I state that I do not "automatically respect male professors" and think that "female professors, especially young ones, have to work harder to earn" my respect. I do not doubt that young women may (and I emphasize "may") have a harder time establishing credibility as a law professor. It's not unfair to believe that being young is a strike against any professor (male or female), as it's a strike against anyone starting out in any profession. But I concede that there likely is residual gender discrimination here at the law school by some of our more backward classmates. I, however, have not personally witnessed any nor been told of any. For me, the professor has my respect on day one, and if she is competent, she keeps

it. If she is not competent, she widdles my respect away until I vent my frustrations on that useless end-of-course critique.

Anyone who has had Professor Carter for Civil Procedure probably will agree that she commands respect from the moment she initiates Socratic method on *Pennoyer v. Neff*. Professor Carter is a young, female professor. She is also African-American. Yet, I don't know anyone from last year's Section 13 who did not respect her throughout the semester.

I did not have Professor Geltman for property, and (believe it or not) when I did have her for Environmental Law last semester, I didn't even know about her infamous mistake until a month or two into the semester. (Yeah, as a matter of fact, I do live under a rock.) By then, my opinion of her teaching ability was already formed.

The only statement in your article that I agree with is the one on page six that states, "She obviously screwed up, but I don't think her entire career should be ruined because of [it]." I don't either. If that had been Professor Cheh, I wouldn't want her booted. (She has my vote for Dean, by the way.) I know, I know—Dean Cheh would not have made such a disastrous error in judgment. But as a young professor, maybe someone with Dean Cheh's ability would be worth the risk in keeping.

I had originally placed my critique of Professor Geltman's teaching ability here. But it's not important. The awful statements by these 3L's go way beyond my useless opinion of a professor. Even if I didn't know her, I would be alarmed by comments like the ones made in this article. If all I knew was that some professor was being criticized, and then I read that it's probably because she is a young woman, well, that is cause for alarm. It is just a sorry and all-too-easy excuse that brings discredit on legitimate discrimination claims. It's time to give others credit. I believe that the majority of my classmates form opinions using real, grown-up criteria like competence and ability.

Dan Goettle, 2L

1Ls Not Overlooked

In the February 2, 1998 edition of *Nota Bene* there was some misinformation printed regarding the programming for first year students and services beyond the fall interviewing program offered by the Career Development Office. We wish to correct that information.

Last fall the CDO completely revamped our approach to first year students. A CDO career consultant has been assigned to each section and is responsible for monitoring their section throughout the first year of law school and thereafter. This approach was developed after input from a committee of students and a survey conducted by the CDO of other top tier law schools to ascertain the nature of their first year programming. Beginning the first week of November each CDO section representative scheduled a large group orientation for their section which was followed by approximately ten small group CDO and Resource Library orientations. The CDO section representative meets with students individually and tracks their job search throughout their law school career, thus insuring that no students fall through the cracks. Additionally, based

Nota Bene

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The 1998 George Washington Award

The Joint Committee of Faculty and Students is accepting nominees for the 22nd Annual GW Award. Members of the GW Community are encouraged to submit names of individuals who have made exception contribution to the University. To nominate or recommend an outstanding GW community member for the 1998 GW Award, send your nomination form and supporting documentation to the GW Award Selection Committee, c/o Dean of Students Office, Rice Hall, Suite 401. The Deadline for nominations is 5pm on Friday, March 6, 1998. For Details contact Dean of Students Office, (202) 994-6710.

Letters to the Editor

on input from students, we reformatted the CDO student handbook into a comprehensive student manual in binder form compiling useful information ranging from NALP guidelines to CDO handouts. The feedback we received about the binders was extremely positive.

For the first time this past fall the CDO offered a two part 1L Orientation Program which was attended by over 250 first year students. *Options in the Law* took place on Saturday, October 4 and *The Career Decision Making Process* was held on Saturday, November 1. Students who attended these programs received foundations for making important career choices. Along with modifications and additions made according to student feedback, we plan to offer this program annually.

So far this semester the CDO has sponsored more programming than ever before. January began with 24 hours of Resumania during which the consultants reviewed more than 100 student resumes. On January 14, we sponsored Jeanne Svikhart from the Department of Justice to speak on *Unraveling the Justice Maze*. On January 15, with the help of Scott Mory and the SBA, we presented *What I Did Last Summer* which was a resounding success. Professor Brauneis spoke to 1Ls about the *Judicial Clerkship Process* on January 20. On Monday, February 2, Kathy Brady formerly with Fordham Law School, presented *Interviewing Tips for 1Ls to a standing room only crowd*. To date, we have presented at least one Brown Bag lunch every week of the semester bringing alumni speakers back to the Law School to speak on topics such as Women in the Law, Health Care Law, Life in a Large Firm, and Environmental Law. We have many more Brown Bags planned for the rest of the semester. Don't miss Sports Law on

Tuesday, February 17 with Philip Hochberg, JD'65.

Last fall we dedicated the month of October to programming and counseling appointments for students seeking opportunities beyond the large law firm. We offered a program which was repeated several times called *Beyond the Large Law Firm* and followed those with a series of Brown Bag lunches. The Brown Bags featured alumni attorneys practicing in areas such as small firms, government and alternative careers. These programs were all well attended and well received. The third week of October was dedicated to public interest programming and led to the Annual NAPIL Public Interest Career Fair and conference.

Responding to student concerns regarding public interest law, on Saturday, February 7 the CDO hosted with Georgetown the Sixth Annual Public Interest/Government Interviewing Day. Over the past three years we have more than doubled the number of employers participating in this program. 128 GW students secured interviews with the 62 participating employers.

On February 10, 11 and 12 we sponsored the Eleventh Annual Mock Interviewing Program. 24 recruitment coordinators and alumni interviewers in both the public and private sectors interviewed 48 students. According to the feedback every year, students find the mock interview programs one of the most helpful services we sponsor.

Again, responding to student input, for the first time this year the CDO and Alumni Relations Office will host a small firm reception for alumni working in small firms and students interested in pursuing employment with small firms. The program will take place on March 10 in the Great Room. We have mailed 700 invitations to small firm alumni and will have in-

formation for students available by the end of February.

The CDO maintains an Alumni Career Network database which contains over 1,200 alumni willing to share career advice and serve as contacts for students and other alumni. A record number of students have taken advantage of the Network in the past year.

We were one of the first law school career development offices to offer jobs postings on-line. Students enjoy the convenience of checking the job postings 24 hours a day without having to leave their homes. The *Noteworthy* newsletter has been expanded and is stuffed in every student mailbox every two weeks. It is also offered via e-mail to those students who have signed up to be on the CDO listserv. The listserv is an excellent way for the CDO to post last minute changes and information to students.

The CDO is always open to constructive suggestions. Many of the above-mentioned programs and services came about through suggestions from students. In addition to the programming, the CDO consultants are available to meet with students and alumni on an individual basis. We average approximately 1,500 hours of counseling time each academic year.

The CDO strives to offer services and programming to meet the broad needs and interests of all students. We welcome constructive feedback and look forward to hearing input which will help us guide students throughout the career search process.

Nancy Carver, Director of Career Development

Jill Kirson, Associate Director

Margaret Bunnell, Assistant Director

Andrea Lurie, Career Consultant

Wendy Strong, Recruitment Manager

Spleen

by Xene Xervenkah

After years of intense training and jockeying for position, the Law School's internal candidates for dean are in top shape. They have sustained injuries--massive eye strain from hours of reading the small print in the Congressional Record, exhaustion at meeting intense publication deadlines--and they have suffered under the pressure of near daily performances in classrooms and court rooms. Professors Cheh, Raven-Hansen and Saltzburg are poised for victory in the battle of their careers. Although all three are worthy of glory, only one can prevail. There can be only one Dean.

How do the competitors stack up?

Saltzburg -- strong on paper with a resume weighing in at a whopping 5 lbs. 3 ounces. Strengths: brain is protected by helmet of impenetrable hair. Role as Iran-Contra prosecutor may have prepared him for negotiations with GW University President Trachtenberg. Weaknesses: allegedly received B.A. from "Dickinson College." Monopolization of textbooks on Evidence and Criminal Procedure raises specter of antitrust violations.

Cheh -- the student favorite. Don't be fooled by kinder, gentler shtick: Cheh has secluded herself in San Francisco training camp for grueling pre-competition workout regimen. Strengths: TV-bright charisma, plus actually has a personality. Brings donuts to last class of

the semester. Weaknesses: only one degree from Harvard. Lacks rigorous hair control of other two contenders.

Raven-Hansen -- the dark horse. Strengths: military intelligence background will keep faculty members with questionable loyalties in line. Boasts expertise on nuclear war. Received two degrees from Harvard. Weaknesses: head cracks open if he smiles. Small children run from him in terror.

LAW SCHOOL NEWS

GELTMAN FROM PG 1

law students, incoming professors, the entire Law School community, and the legal profession,

"Whereas, there were substantial similarities between the Spring 1996 Property Exam given by Professor Elizabeth Glass Geltman and an exam given by another Law School professor in the past,

"Whereas, over 100 students were directly harmed by the inappropriateness of the impounded Spring 1996 Property exam taken by her class,

"Whereas, Professor Elizabeth Glass Geltman has never publicly apologized to the entire student body for either the inappropriate nature of the Property exam or the subsequent damage to the students in her former class,

"Whereas, this conduct violated the spirit of the Academic Integrity Code recently passed by the student body which advocated high ethical, moral and professional standards,

"Whereas, any law student found to have committed analogous misconduct would have been severely punished,

"Whereas, while the Student Bar Association truly respects the separate role that the student and faculty members of the Law School's Tenure and Promotions Committee play in evaluating the entire record of a faculty member, the Student Bar Association nonetheless feels compelled to speak on the issue of the continued employment of Professor Elizabeth Glass Geltman at the Law School,

"Be it resolved, that the Student Bar Association urges the Law School Faculty and the University Administration to decline to renew the employment contract of Professor Elizabeth Glass Geltman."

The SBA solicited responses to an earlier proposed version of the resolution from Dean Friedenthal and Prof. Geltman, according to SBA president Brian King. Dean Friedenthal declined to comment, citing University regulations regarding administrative interference with student governance. Professor Geltman did respond, however, with a letter to Brian King and a substantial packet of supporting materials, all of which were distributed to the SBA board. A copy of Prof. Geltman's response was obtained by Nota Bene.

In her letter to King, Prof. Geltman urges the SBA to review her entire record. "If the [SBA] chooses to act," the letter states, "I hope they take into account the thoughts of all my students in all my classes and not just focus on one class I taught for the first time, the first year of my contract . . . Please also encourage that these students independently . . . read all my writings and consider all that I have done for the students over my last five years at the university."

The letter continues: "I hope your careers are smooth and that you never make any errors in judgment. I hope you are evaluated on all you do and not just on the worst grade you got in your first year of law school.

"If you ever do make a mistake, I hope that it is put in context and is not judged for the rest of your life as the only thing you have done in your entire career worthy of comment. I hope that those who judge you do so by looking at all the evidence of your performance and



Prof. Elizabeth Glass Geltman

not limit the decisions on whether to make you partner, or other career related decisions, based on a single mistake rather than on your entire record of performance and commitment to your chosen career.

"I am very sorry for the strain or inconvenience that any of my actions may have caused on all concerned. For the past five years, I have dedicated my career to helping GWU students become outstanding lawyers. It was never my intention to hurt anybody. Suffice it to say, the last three years have been a learning experience for me too."

Among the other materials Prof. Geltman provided to the SBA, a copy of a memorandum she wrote to the Tenure & Promotions Committee reiterates her request that "an error of judgment" be considered "in light of my numerous accomplishments in my environmental law specialty." At one point, the memo states, "I hope the faculty will judge of my error as the mistake of a young, overworked first time teacher and not as the defining moment of my career. I can assure the entire law school faculty that the discomfort my action caused the entire law school community has caused me great angst. The faculty can rest assured that I have 'grown' a lot from this experience and if awarded another three year contract, I will make no similar mistake in the future."

Another memorandum from Prof. Geltman, also included in the materials given to the SBA, contains her own account of the circumstances surrounding the '96 Property exam. In a portion of the Feb. 1, '98 memo, titled "Statement in Response to the Ex Parte, Confidential File Compiled by the Administration & Delivered to Me on December 17, 1998[sic]," Prof. Geltman states:

"When I agreed to teach one of the property sections in the second semester of the 1995-1996 academic year, several faculty members kindly offered assistance. Professor Schwartz recommended a text, and shared material including syllabi, lecture notes, and examinations from prior years. I was very grateful for this generous assistance. I, of course, realized that agreeing to take on property, a course I had never taught, was likely to increase my load a great deal, but I did not anticipate how significant the increase would be. The Environment Lawyer was in its first full year of production and the Environmental LL.M. program had the highest number of students that we have ever had in the program.

"By the time the semester was drawing to a close, drafting the examination was just one among many pressing responsibilities. I had an overriding

concern that the final exam that I gave would be consistent with those generally used for property at the law school. I mistakenly assumed that I had Professor Schwartz' authorization to use the materials he gave me as I saw fit. This was an error on my part, and, of the many regrets I have about the experience, the one I regret most . . .

"I did not, however, use the exam 'as is.' I added several environmental law issues to change the analysis in several important respects, to prevent any undue advantage by any students who had devoted special attention to the copy of Prof. Schwartz' exam on reserve in the library. I now realize, my thinking was flawed, beginning with the mistaken assumption that Professor Schwartz had somehow authorized use of prior examinations. In retrospect, my most fundamental mistake, however, was the failure to draft my own examination from scratch and avoid the controversy that this created. It did not occur to me that students who happened to review the Schwartz exam on reserve would not look at my exam with 'fresh eyes,' but would incorrectly assume that both the facts and the analysis were identical to those in the Schwartz exam.

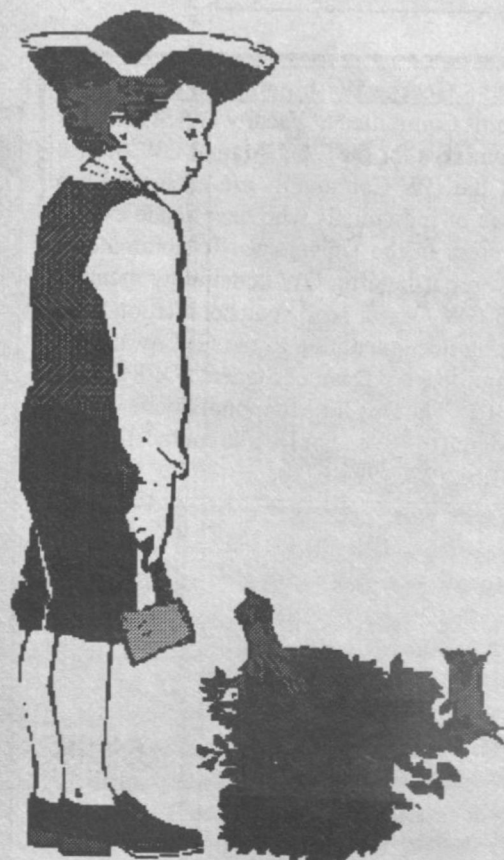
"I deeply regret all of this and the strain it has put on the administration, the school and, as I'm sure all realize, myself and my family. It has been the source of deep soul searching for me. I have devoted myself to my scholarship and teaching in my specialty with renewed vigor. Suffice it to say that this episode proved to be a learning experience for me. I apologize to all who were affected.

"I am now in your hands to decide whether a substantially modified version of Prof. Schwartz' exam almost two years ago outweighs all that I have accomplished. I believe I have learned and grown as an academic, and that I have promise for the future. Whether there is to be a future is now in your hands."

NEW BUILDING
FROM PG 1

only tentative, given the fact that Francis Scott Key Hall currently houses undergrads. "We've got to find housing for the students there now. This [proposal for putting law students in the dorm] is three to five years down the line. But you must have a vision."

The president also noted that his plan demonstrates his eagerness to work cooperatively with a new Law School dean. "I think [the plan] ought to attract someone to the job," he said. "It indicates the commitment of the president to the Law School, and makes obvious that there will be a partnership with the University. I'm trying to set aside some of the misunderstandings of the past."



I cannot tell a lie . . . however, my lawyers have instructed me not to comment on any matter that may be the subject of Ken Starr's investigation

LAW SCHOOL NEWS

SYMPOSIUM FROM PG 1



Prof. Jeffrey Rosen

last moment to replace Prof. Calabresi -- and, as Prof. Maggs noted, since he and Prof. Calabresi are brothers-in-law, the Law Review was keeping the event "all in the family."

The GW Law Review has sponsored similar events in the past, explained Hines, including, most recently, a symposium on Professional Responsibility. The faculty urged the current editorial board of the Law Review to sponsor a symposium, and offered several suggestions for topics. The Law Review ultimately chose Prof. Rosen's proposal for a symposium on textualism, in part because of his "great enthusiasm for the topic," said Hines. Prof. Rosen was instrumental in selecting and inviting many of the scholars who participated in the symposium, she noted.

The principal papers presented this past weekend will be published by the Law Review in a volume dedicated to the Symposium.

SPORTS FROM PG 8

to rule its organization. It's as simple as that."

In reaction to comments by Palmer and others including Jack Nicklaus, arguably golf's most celebrated figure, Martin explained that "I just kind of scratch my head and ask what would they do if they were in my shoes? What if Jack Nicklaus, when at age twenty-five, with all his talent, couldn't walk effectively enough to compete? Would he just bow out and say I can't do it, that's the breaks? I don't think so. I think anyone in my position would do the same thing."

There is little question that Martin's story is among the most com-

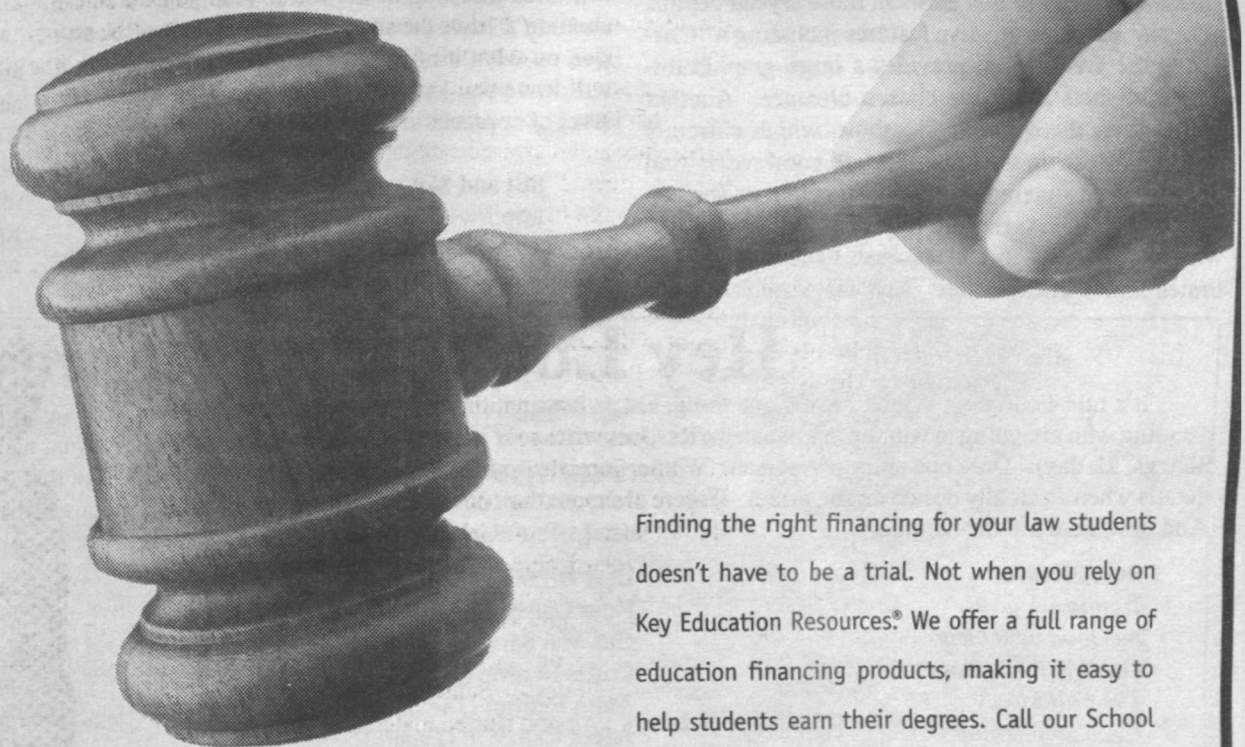
elling in the history of professional sports. His life is filled with uncertainty on all fronts. Doctors are uncertain how much longer he'll be able to use or even have his full right leg, and the PGA's appeal threatens to eventually undermine his recent court victory. One thing that is certain, though, is that a young and courageous Casey Martin has changed the way America looks at the rights of the disabled forever.

"Sports and the Law" is a bi-weekly commentary on recent events in the fast-paced world of business behind the professional, college and amateur sports scenes, written from the lawyer's perspective.

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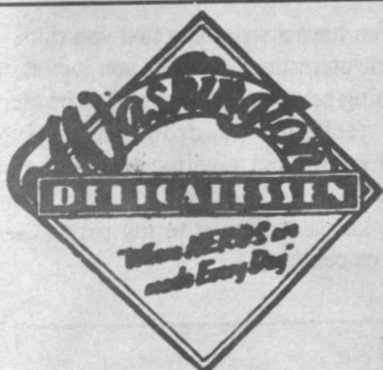
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FEATURES

"The Deep Blue"

Oceans cover three-quarters of the globe and within their depths are some of the most interesting creatures and sites on the planet. Yet for something so large there are surprisingly few web sites devoted to it. After what turned out to be a more exhaustive search than I'd anticipated, here are some of the more interesting ocean-related sites. The sites cover everything from the oceans themselves, to the creatures and other natural features of the great deep blue.

FishEye View Cam

<http://web.FisheyeView.com/FVCAM/>

One of the more interesting live web cams on the net, the FishEye Cam is focused on a coral reef in Coral Gables, Florida. The camera captures one frame every three seconds (though the web site shows

Life on the Web

by
Andrea Chempinski
Features Editor

one every 90 seconds) and was designed to allow marine biologists to study the slow-moving life in the reef. The site also features some beautiful photo galleries of fish, coral and reefs, all of which are accompanied by notes about the location and details of each photo.

Hawaii Coral Reef Network
<http://www.coralreefs.hawaii.edu/>

Thoughts of Hawaii just wouldn't be complete without imagining the beautiful blue waters and teeming underwater scenes. This website is devoted to showing the life that exists in those crystal depths. The site has some creative features including a "Critic of the Week," that provides a large graphic followed by facts about the chosen creature. Another highlight is the dynamic sideshow, which currently features a topic on the importance of coral reefs. And in case you wondered about all the creatures you can find in the waters, the site has a comprehensive list, with photographs, on the seaweed, fishes and invertebrates found in the water. And for an added bonus

they include notes on what Native Hawaiian uses each has.

Cephalopod Page

<http://is.dal.ca/~ceph/wood.html>

More than you ever wanted to know about Cephalopods, but still intriguing. The site is run by a grad student from Dalhousie University, and is designed around information rather than graphical appeal, but it manages to do well for itself. For the non scientific type, the text can be a bit overwhelming, but it's worth digging through to see some of the photographs, many of which were donated by some of the most prestigious museums of the country. Overall not the most interesting site, but considering it was designed more as an information source, it does a nice job of integrating photographs on most of the subpages.

OceanLink

<http://oceanlink.island.net/>

A collection of several ocean institutes on one web site, this page offers a little bit of everything in one place. For those who want to know which marine animal holds the record for smallest, fastest or deepest, the site offers a nice listing of animal marine records. Another highlight is the "Ask a Marine Scientist" section, which, while is currently not accepting new questions, does have a great archive of previous questions and answers. The site rounds out with a system of links that work with the Vancouver Aquarium to provide images and facts about marine life.

Secrets of the Ocean Realm

<http://www.pbs.org/oceanrealm/>

This page is devoted to the PBS series of the same name, and features descriptions of the current episodes of the show as well as lots of other stuff. The page wins points for originality of design as the top of the page features gently rolling waves. Other site highlights include a downloadable screensaver that features the images and sounds from the series, and a page devoted to up close and personal looks at the creatures dwelling in the ocean. And you definitely shouldn't leave the site without checking out the section on what it takes to make an underwater film, it will leave you looking at the films with a whole new level of appreciation.

Sea and Sky

<http://www.magicnet.net/~jdk/seasky.html>

A fabulous site for deep sea imagery! The site has pages for fish, invertebrates and other types

"Olympic Glory"

by Andrea Chempinski
Features Editor

The 1998 Winter Olympics are on the web, and in lots of different places. Here are some of the most concise and well rounded sites.

Webpages viewers should be warned, however, the sites are operated on Nagano time which is 14 hours ahead of EST. Just what does that translate to? Simply that the results of many of the events will be on the webpage before they're broadcast here. (And often the results are on the opening page so they're impossible to avoid) So for events that are not shown live, it's best to avoid the site til after the event you want to know the results of has been broadcast.

The Official Olympic Site

<http://www.nagano.olympic.org/>

Yahoo's! Site for the Winter Olympics

<http://nagano.yahoo.com/wg98/>

CBS Sportsline

<http://www.winterolympics.com/>

Send fanmail to your favorite Olympian

<http://www.fanmail.olympic.ibm.com/>

of deep sea and reef life, each with biological detail and crisp full color photos. Highlights of the site include a series of icons that help determine which creatures are suitable for which type of aquarium. The Sea Lab section is an excellent collection of links to interactive lab type experiences, from virtual fish tanks to ocean temperature comparisons. Other features include aquarium links, oceanographic links and even a section on sea games. Definitely a site worth looking into.

Do you have a web page that you think others would find interesting? Or did you just stumble across something so strange it just had to be shared? Either way feel free to drop me a line at hoo@hoolooovoo.com and give me your suggestions for future columns. And heck if you really have that much time to kill surf on over to my page at <http://www.hoolooovoo.com/>

Hey Look! It's a Contest!

It's mid-February. Which means one thing, Oscar nominations are in. And we here at *Nota Bene* (or at least just me) are going to have a contest by deciding who are going to win the major categories. Just write your answers on a sheet of paper along with your name and year and place them in my box (Travis Skaggs, 2L day). Only one entry per person. Winner receives a video of my choosing (odds are very high that it will be campy and not pornographic. More details when I actually decide on the prize). If there are more than one person with the most correct responses, the winner will be chosen at random (trust me). And now, here are the nominees:

Best Picture

Titanic

As Good as it Gets

Good Will Hunting

The Full Monty

L.A. Confidential

Best Actor

Matt Damon (*Good Will Hunting*)

Robert Duvall (*The Apostle*)

Peter Fonda (*Ulee's Gold*)

Dustin Hoffman (*Wag the Dog*)

Jack Nicholson (*As Good as it Gets*)

Best Supporting Actor

Robert Forster (*Jackie Brown*)

Anthony Hopkins (*Amistad*)

Greg Kinnear (*As Good as it Gets*)

Burt Reynolds (*Boogie Nights*)

Robin Williams (*Good Will Hunting*)

Best Director

Peter Cattaneo (*The Full Monty*)

Gus Van Sant (*Good Will Hunting*)

Curtis Hanson (*L.A. Confidential*)

Atom Egoyan (*The Sweet Hereafter*)

James Cameron (*Titanic*)

Best Actress

Helena Bonham Carter (*The Wings of the Dove*)

Julie Christie (*Afterglow*)

Judi Dench (*Her Majesty Mrs. Brown*)

Helen Hunt (*As Good as it Gets*)

Kate Winslet (*Titanic*)

Best Supporting Actress

Kim Basinger (*L.A. Confidential*)

Joan Cusack (*In & Out*)

Minnie Driver (*Good Will Hunting*)

Julianne Moore (*Boogie Nights*)

Gloria Stuart (*Titanic*)

Best Original Screenplay

As Good as it Gets

Boogie Nights

Deconstructing Harry

The Full Monty

Good Will Hunting

Best Adapted Screenplay

Donnie Brasco

L.A. Confidential

The Sweet Hereafter

Wag the Dog

The Wings of the Dove

FEATURES

Love and
Bulletsby Travis Skaggs
staff writer

Great Expectations

If your idea of a true romance is total obsession over a woman who is a complete user, then this one's for you, baby. Ethan Hawke is Fin, a Florida artist of some talent who lives with his uncle, whose first, and apparently only, judging from the film, is Gwynneth Paltrow's Estella.

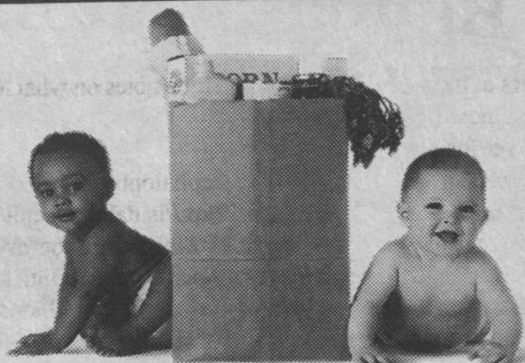
The plot is essentially the same as the Dickens novel that so many hate so much. Boy is paid to play with girl, boy loves girl, girl leaves boy, boy has mysterious benefactor who makes boy's dreams come true, here comes girl again to stomp on boy's heart, boy somehow learns to deal. It's more of a series of simplistic vignettes than a movie. No complexity. Certainly no romance. Just a whiny young man who just doesn't get it. But the acting's pretty good, so there is some redemption. And Anne Bancroft is just too creepy to be missed. Grade: C

The Replacement Killers

Hong Kong superstar Chow Yun-Fat makes his American film debut in a role designed for those familiar with his work, like *The Killer* and *Hard Boiled* (both highly recommended). As in *The Killer*, Chow Yun-Fat plays a supercool professional killer with a conscience trying to get out of the business. Unlike *The Killer*, Mira Sorvino is along for the ride as a forger who unwittingly gets involved in the bullet riddled mess. And she can shoot!

The film tries to be stylish and artistic by painting a rich tapestry with bullets. It just never quite reaches that goal. Chow Yun-Fat displays charisma, dignity, and style that is often missing in action heroes. It's also apparent that he has an acting range that the others do not have (Sylvester Stallone, I'm looking in your general direction). All he needs is a better script. Mira Sorvino surprised me by actually fitting in. Director Antoine Fuqua, besides having a really cool name, does have potential as a director, but he needs to step away from that kinetic style apparent in most video-turned-movie directors.

The film is fraught with problems and absurdities. Well, first there's the dialogue. Apparently, the film makers were worried about Chow Yun-Fat's control of English, so they gave him mostly monosyllabic one or two lines of dialogue. At least there's no forced romance just because the two leads are of opposite gender. Most of the action sequences are weak. If the bad guys knew how to aim, this movie would be twenty minutes long. The funniest moment comes when the replacement killers of the title arrive to finish the job Chow Yun-Fat refused to do. Two men walking in slow motion wearing all black, sunglasses, and black leather trenchcoats, these could only be professional assassins or a couple of badass investment bankers. If this is how all hitmen look, it should be pretty easy to stop them before they kill again. Grade: C+



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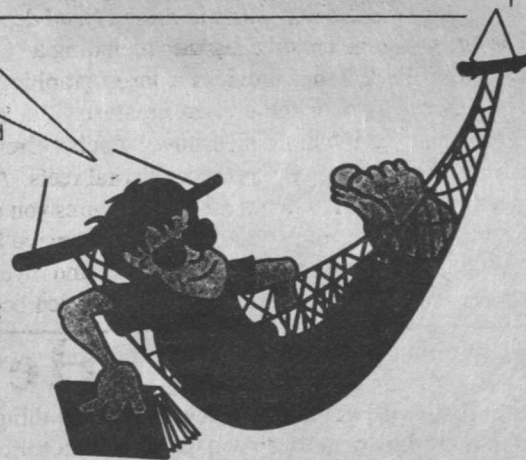
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SPORTS and the LAW

ADA Takes Center Stage in Professional Sports: Golfer Casey Martin Wins Right to Use Motorized Cart on PGA Tour

By: Dennis W. Bishop, Esq.
&
Bret M. Kanis, Esq.

When U.S. Magistrate Thomas M. Coffin ruled last week that the Pro Golfers' Association (PGA) Tour must make an exception to its ban on motorized carts in tournament play in order to permit golfer Casey Martin to ride a cart on the Pro Golfers' Association (PGA) Tour, he sparked what promises to be a heated and ongoing debate on the rights of disabled persons. Decided under the Americans with Disabilities Act (ADA), this landmark case was the first to invoke federal disabilities laws in the context of professional sports.

In placing the ADA on the front pages of America's newspapers, this unprecedented challenge by Martin raised a number of key legal issues including whether courts can rely on the ADA to make rules for professional sports leagues. The case also forced the courts to define the boundary between where public space at sports events ends and the playing field begins.

Martin, the twenty-five year-old former captain of the Stanford University golf team and teammate/roommate of Tiger Woods, was born with a circulatory disorder known as Klippel-Trenaunay-Weber syndrome in his right leg. The condition of his lower right leg has deteriorated to the point where he suffers excruciating pain if required to walk when he plays golf.

The *Casey Martin v. PGA Tour Inc.* decision was handed down in Martin's hometown of Eugene, Oregon, after a week-long, emotionally charged, non-jury trial which featured testimony from a teary-eyed Martin as well as golf legends Jack Nicklaus and Arnold Palmer, and political figures including the likes of former Senator Bob Dole (R-Kansas), who is disabled himself. Emotions aside, there are a number of provisions of the ADA which came into play in U.S. Magistrate Coffin's decision-making process.

Originally introduced in Congress by lead sponsor U.S. Senator Tom Harkin (D-Iowa) in 1988, and signed into law by then President George Bush on July 26, 1990, the Americans with Disabilities Act "prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications and activities of state and local government." The Act is extremely careful in defining those parties covered by its provisions.

The ADA defines "disability" with respect to a person as "a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment." In terms of employment, the ADA defines a "qualified individual with a disability" as "an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires."

It was particularly significant to the Casey scenario that the ADA also mandates that "consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this shall be considered evidence of the essential functions of the job." According to the terms of the ADA, "reasonable accommodation" may include "making existing facilities used by employees readily accessible to and usable by individuals with disabilities" as well as "acquisition or modification of equipment or devices" and any "other similar accommodations for individuals with disabilities."

The determination as to whether Martin is entitled to use a golf cart to compete in PGA Tour events actually involved two separated ADA issues. First was the preliminary issue of whether the ADA applies in the context of the PGA Tour. Once determined that the ADA does apply, the second issue was whether the PGA Tour's refusal to provide a golf cart,

which Martin claimed is a reasonable accommodation, is violative of the ADA.

With respect to the preliminary determination of whether the ADA even applies to a PGA event, the Tour argued that it is a private organization and falls outside the jurisdiction of the ADA. According to PGA lawyers, the PGA and its minor league circuit Nike Tour are not covered entities under the ADA since they do not qualify as an employer by the terms of the ADA. Rather, the PGA opined that it falls within the "private membership club" exception to the ADA definition of "employer". In the words of PGA Tour lawyer William Maledon, "The issue is whether the PGA Tour is a private club. It has very selective criteria for membership and I submit...it is a private organization and exempt."

In order to counter the PGA's contentions that the ADA is not applicable in Martin's particular case, his attorneys, William Wiswall and Martha Walters, were faced with the task of proving either that the competitive area of a golf course known as "inside the ropes" is a public space or that Martin is an employee of the PGA Tour. However, Martin's attorneys never reached the issue of whether Martin is an employee of the tour by virtue of U.S. Magistrate Coffin's ruling approximately two weeks ago against the PGA's request for dismissal on the grounds that a golf course is not a public space but rather an athletic playing field open only to the players.

During that proceeding, PGA attorney William Maledon argued that the area of a golf course "inside the ropes" is the Tour's domain during a tournament and not "a place of public accommodation". Martin's attorney, Martha Walters, disagreed, arguing that a golf course during a tournament is like a private school in that the public is restricted, but people with disabilities must be accommodated. In ruling against the PGA, U.S. Magistrate Coffin echoed the sentiments of Walters, reasoning that it makes no sense that a golf course would not be a place of public accommodation even during a tournament. In denying the PGA's request for dismissal, the U.S. Magistrate found that the entire golf course including the area "inside the ropes" is public and accordingly subject to the ADA and its accommodation provisions.

Once Martin attorneys Wiswall and Walters overcame this preliminary threshold by establishing that the ADA applied, they moved on to the second issue--whether the PGA Tour and Nike Tour were in violation of the ADA. Pursuant to its terms, the ADA requires employers covered by the Act to have both non-discriminatory application procedures and non-discriminatory terms, conditions and privileges of employment, and to make reasonable accommodation to the known limitations of a qualified individual.

Owing to the "reasonable accommodation" standard, Martin's legal team was faced with the task of demonstrating that Martin's use of a golf cart would not fundamentally alter the nature of the game. In order to do this, Martin's attorneys argued simply that the game of golf boiled down to swinging the club and getting the ball in the hole and nothing more.

In presenting its defense to the second issue, the PGA argued that walking 18 holes is an essential part of the game when played at the PGA Tour's high level of competition and that permitting one competitor to ride a cart would provide an advantage to Martin and be unfair to the other players. Finding that walking "is not significantly taxing" and that "walking, like breathing, is natural," Coffin rejected the Tour's defense. The U.S. Magistrate further opined that "the fatigue factor [Martin] is experiencing is easily greater than the fatigue experienced by individuals who walked the course." PGA Tour Commissioner Tim Finchem countered that "unfortunately, [rules are] being made by someone who doesn't have a background in golf."

Coffin's post-trial comments also included the admission that he disagreed with the Tour's argument that the case was not about Martin but rather about the broad policy of fairness in golf. Coffin believes that ADA assessments must be made on an individu-

alized case-by-case basis. Furthermore, the U.S. Magistrate did not find Martin's request to be unreasonable as carts are allowed on the Senior PGA Tour as well as during early rounds of the national qualifying school for the PGA Tour. The PGA was quick to counter that the Senior PGA tour is irrelevant as it is a nostalgia tour.

Commissioner Finchem responded to the decision by announcing that while the tour will honor Coffin's ruling including the provision of a cart for Martin in the Nike Tour's Greater Austin Open in Texas on March 5-8, it does plan to move forward with an appeal to the U.S. Ninth Circuit Court of Appeals in San Francisco. In further reaction to the ruling, Finchem noted, "The PGA Tour is disappointed with the court's decision. As we have said from the outset of this lawsuit, we believe firmly in the basic premise of any sport, that one set of rules must be applied equally to all competitors. Additionally, we believe strongly in the central role walking plays for all competitors in tournament championship golf at the PGA Tour and Nike Tour levels."

In reference to Coffin's issuing a temporary injunction last November that allowed Martin to use a cart while awaiting trial, Finchem continued, "We also disagree with the judge's prior ruling that PGA Tour competitions are places of public accommodation. In our view, the area inside the ropes at a PGA Tour event is no different than the playing field in any other professional sport, and is not therefore a place of public accommodation. The PGA Tour believes that the ADA was not designed or intended to apply to competitors in professional sporting events, including professional tournament golf."

Commissioner Finchem is not without support from the legal community. Minneapolis attorney Chris Bell, who is blind, argues that "disabled for golf is not necessarily disabled as far as I'm concerned." Bell is considered a leading national expert on the ADA largely due to his experience overseeing the development of many of the ADA's regulations while working at the Equal Employment Opportunity Commission at the time the ADA was passed in 1990.

To support his view, Bell explains that if Martin worked at a bank, for example, it is questionable whether he would qualify as "disabled" under the ADA. If he doesn't qualify that way, according to Bell, it's difficult to argue that he should qualify because he can't walk 72 holes of golf in four days. Arguments such as that put forth by Bell set the stage for the PGA's appeal.

The pending appeal aside, though, Martin faces an additional future hurdle in that he endeavors to qualify for this June's U.S. Open which is run by the U.S. Golf Association (USGA), the organization which sets the rules for the game of golf at all levels from recreational to professional play. Since Martin's action was against the PGA Tour only, the USGA is not bound by U.S. Magistrate Coffin's decision. As of yet, there has been no official reaction from the USGA, but Martin hopes that golf's ruling body will honor the decision.

Perhaps the most interesting element of the Martin debate is revealed when the legal issues are stripped away and consideration is given to the opinions of Martin's predecessors on the tour. Golf great Chi Chi Rodriguez noted that "Casey's not fighting the tour. He just wants to be able to make his own livelihood and I think we should help him do that. If Franklin Roosevelt ran the country, Casey Martin should be able to play golf out of a golf cart. That golf cart is not going to hit the ball."

Arnold Palmer, one of golf's most storied legends, is not as compassionate as Rodriguez in his evaluation of the Martin situation. According to Palmer, "This could open the door for a lot of people who have various kinds of ailments to make overtures to play the tour...I think the PGA Tour should be able

See Sports Pg 5